

(d) *Additional information.* The FDIC may request additional information at any time during processing of the filing.

(e) *Processing.* The FDIC will provide the applicant with written notification of the final action as soon as the decision is rendered.

(f) *Delegation of authority.* (1) Except as provided in paragraph (f)(2) of this section, authority is delegated to the Director and Deputy Director (DOS) and, where confirmed in writing by the Director, to an associate director and the appropriate regional director and deputy regional director, to approve or deny requests for extensions of time within which to perform acts or fulfill conditions required by a prior FDIC action on a filing of the insured depository institution.

(2) *Limits on exercise of delegated authority.* (i) An extension of time may not exceed one year; however, more than one extension may be granted regarding a particular filing.

(ii) Notwithstanding the delegations in paragraph (f)(1) of this section, no delegate shall have the authority to deny an extension of time request unless that delegate has the authority under this part to deny the original filing upon which the extension of time is predicated.

## Subpart N—Enforcement Delegations

### § 303.260 Scope.

This subpart contains delegations of authority relating to the initiation, prosecution, and settlement of administrative enforcement actions under the FDI Act and other laws and regulations enforced by the FDIC, including investigations and subpoenas.

### § 303.261 Issuance of notification to primary regulator under section 8(a) of the FDI Act (12 U.S.C. 1818(a)).

(a) *Book capital less than 2 percent.* Authority is delegated to the Director and Deputy Director (DOS), and where confirmed in writing by the Director, to an associate director and to the appropriate regional director and deputy regional director, to issue notifications to primary regulator when the respond-

ent depository institution's book capital is less than 2 percent of total assets; provided that authority may not be delegated to the regional director or deputy regional director whenever the respondent depository institution has issued any mandatory convertible debt or any form of Tier 2 capital (such as limited life preferred stock, subordinated notes and debentures).

(b) *Tier 1 capital less than 2 percent.* Authority is delegated to the Director and Deputy Director (DOS) and, where confirmed in writing by the Director, to an associate director, to issue notifications to primary regulator when the respondent depository institution's adjusted Tier 1 capital is less than 2 percent of adjusted part 325 total assets as defined in § 303.2(b).

(c) *Legal concurrence.* The authority delegated under this section shall be exercised only upon concurrent certification by the General Counsel or, where confirmed in writing by the General Counsel, by his or her designee, or, in cases where a regional director or deputy regional director issues notifications to primary regulator, by the appropriate regional counsel, that the allegations contained in the findings of violations of law or regulation and/or unsafe or unsound practices and/or unsafe or unsound condition, if proven, constitute a basis for the issuance of a notification to primary regulator pursuant to section 8(a) of the FDI Act (12 U.S.C. 1818(a)).

### § 303.262 Issuance of notice of intention to terminate insured status under section 8(a) of the FDI Act (12 U.S.C. 1818(a)).

(a) *General.* Authority is delegated to the Director and Deputy Director (DOS), and where confirmed in writing by the Director, to an associate director, to issue notices of intent to terminate insured status when the respondent depository institution has failed to correct any violations of law or regulation and/or unsafe or unsound practices and/or unsafe or unsound condition as specified in the relevant notification to primary regulator.

(b) *Legal concurrence.* The authority delegated under this section shall be exercised only upon concurrent certification by the General Counsel or,

where confirmed in writing by the General Counsel, by his or her designee, that the allegations contained in the findings in the notice of intention to terminate insured status of violations of law or regulation and/or unsafe or unsound practices and/or unsafe or unsound condition, if proven, constitute a basis for termination of the insured status of the respondent depository institution pursuant to section 8(a) of the FDI Act (12 U.S.C. 1818(a)).

**§ 303.263 Cease-and-desist actions under section 8(b) of the FDI Act (12 U.S.C. 1818(b)).**

(a) *General.* Authority is delegated to the Director and Deputy Director (DOS), to the Director and Deputy Director (DCA), and where confirmed in writing by the appropriate Director, to an associate director and to the appropriate regional director and deputy regional director to issue:

(1) Notices of charges; and

(2) Cease-and-desist orders (with or without a prior notice of charges) where the respondent depository institution or individual respondent consents to the issuance of the cease-and-desist order prior to the filing by an administrative law judge of proposed findings of fact, conclusions of law and recommended decision with the Executive Secretary of the FDIC.

(b) *Joint DOS–DCA action.* The Director (DOS) and the Director (DCA) may issue a joint notice of charges or cease-and-desist order under this section, where such notice or order addresses both safety and soundness and consumer compliance matters. A joint notice or order will require the signatures of both Directors or their Deputy Directors or associate directors, appropriate regional directors or deputy regional directors.

(c) *Legal concurrence.* The authority delegated under this section shall be exercised only upon concurrent certification by the General Counsel or, where confirmed in writing by the General Counsel, by his or her designee, or, in cases where a regional director or deputy regional director issues the notice of charges or the stipulated cease-and-desist order, by the appropriate regional counsel, that the allegations contained in the notice of charges, if

proven, constitute a basis for the issuance of a section 8(b) order, or that the stipulated cease-and-desist order is authorized under section 8(b) of the FDI Act, and, upon its effective date, shall be a cease-and-desist order which has become final for purposes of enforcement pursuant to the FDI Act.

**§ 303.264 Temporary cease-and-desist orders under section 8(c) of the FDI Act (12 U.S.C. 1818(c)).**

(a) *General.* Authority is delegated to the Director and Deputy Director (DOS) and to the Director and Deputy Director (DCA), and where confirmed in writing by the appropriate Director, to an associate director, to issue temporary cease-and-desist orders.

(b) *Joint DOS–DCA action.* The Director (DOS) and the Director (DCA) may issue a joint temporary cease-and-desist order where such order addresses both safety and soundness and consumer compliance matters. A joint notice or order will require the signatures of both Directors or their Deputy Directors or associate directors.

(c) *Legal concurrence.* The authority delegated under this section shall be exercised only upon concurrent certification by the General Counsel or, where confirmed in writing by the General Counsel, by his or her designee, that the action is not inconsistent with section 8(c) of the FDI Act (12 U.S.C. 1818(c)) and the temporary cease-and-desist order is enforceable in a United States District Court.

**§ 303.265 Removal and prohibition actions under section 8(e) of the FDI Act (12 U.S.C. 1818(e)).**

(a) *General.* Authority is delegated to the Director and Deputy Director (DOS) or the Director and Deputy Director (DCA) and, where confirmed in writing by the appropriate Director, to an associate director, to issue:

(1) Notices of intention to remove an institution-affiliated party from office or to prohibit an institution-affiliated party from further participation in the conduct of the affairs of an insured depository institution pursuant to sections 8(e) (1) and (2) of the FDI Act (12 U.S.C. 1818(e) (1) and (2)), and temporary orders of suspension pursuant to